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THE

# INSURRECTION

AMONG THE

# Railway Employees

OF THE UNITED STATES,

AND THE

## LOSSES IN PITTSBURGH RESULTING THEREFROM,

IN JULY, 1877.

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MEMORIAL OF THE

## PITTSBURGH CHAMBER OF COMMERCE,

TO THE PENNSYLVANIA LEGISLATURE.

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# THE STORY OF THE JULY STRIKES

AMONG THE

# RAILWAY EMPLOYEES,

—AND THE—

SUBSEQUENT INSURRECTION, ARSON AND PILLAGE IN THE CITY OF PITTSBURGH.

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## THE LIABILITY FOR THE LOSSES.

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*To the General Assembly of Pennsylvania:*

As early as the middle of the month of July, 1877, the telegraph announced from various places throughout the country, including important railway points in several of the States, mutterings of discontent and threatenings on the part of railway employees, that "a strike" would assuredly result from the repeated and swift recurring reductions of the wages of the men. It was openly announced and widely heralded that these reductions had been forced to such an unwarranted extent, that the condition of the employees on the various trunk lines was no longer endurable; in fact, that the wages received were insufficient to support life, and that entreaties and petitions had failed to arrest the attention of the officials, leaving a strike or starvation the only possible result of the policy pursued by the railway authorities.

It is not our wish nor our purpose to give any opinion on the merits of the above mentioned controversy between the management and employees of the railway companies; we only refer to it at all, in this way, and at this time, as it appears necessary to a full description of the causes that led to the subsequent calamitous results, which our State, not only, but a number of sister States, if not our entire country, have been called upon to deplore.

## The First Outbreak.

At Martinsburg and other points in Virginia and West Virginia, extending from Harpers Ferry in the east, to Grafton in the west, news came that the railroaders had complete possession of the Baltimore and Ohio road, delaying all freight trains, blockading the tracks, and defying the authorities of the law as well as of the road. Then from Indianapolis, in Indiana, and from Bellaire and Denniston, in Ohio, from Cumberland, in Maryland, and Parkersburg, in West Virginia, came quickly the information that the roads in those localities had been violently seized by the mob; the trains stopped, engineers and brakemen threatened with death if they attempted to move the trains, and in some instances the threat put into execution, so far as to injure and maim those men who made the attempt to discharge their duty. This exciting and alarming news spread like wild-fire, and it began to appear as though the insurrection was so vast and widespread, that the civil power everywhere was unable to restore peace, and that the military would ultimately be required. In pursuance of this belief, the president of the Baltimore and Ohio road made an earnest call for protection on the governors of Maryland and West Virginia. The latter, after attempting a response, found himself powerless to furnish adequate protection, from the fact that a large proportion of the State militia were active promoters of the trouble, or at least were in full sympathy with the insurrectionists. Not until the national authority was invited by the governor of Maryland—he having no State troops at his disposal—and the national forces brought face to face with the rioters, was order restored, and the open insurrection in that section suppressed.

## The Trouble Spreading.

While all this disorder and confusion existed in three States on our southern border, the insurrection continued to grow and strengthen in the States north and west of Pennsylvania. From New York to Omaha, the northern roads, together with those intersecting them, were practically blockaded, and civil authorities set at defiance by the mob, who held quiet but firm possession of the railroad property, insisting, in their own words, that they would have "bread or blood."

Of course this terrible condition of anarchy could not long remain stationary; it must need spread and grow more and more hot and violent or subside through cowardice or lack of fresh stimulating material. Like smoldering embers, it must obviously die in the absence of fuel. A single spark, however, is oftentimes sufficient to begin anew the flames; and this appears to have been the case here.

## Pittsburgh.

While all this had been occurring elsewhere, the railway employees hereabouts had not been idle watchers, but on the contrary had evidently been preparing to join at the opportune moment and assist their fellow workmen, in the way agreed upon among themselves, for righting their alleged wrongs and bringing the railway authorities to what they thought to be the fair and just determination of the disputes and disagreements existing. Not, however, until after the military had been called out in Maryland and Virginia, and the anarchy prevailing in other States amounted, in its extent of lawlessness, to open, widespread insurrection, wholly beyond the authority of the civil magistracy to suppress or control, and not until the outbreak among the railway employees had assumed the most alarming and threatening proportions, causing the great freight traffic to be wholly blockaded, the mails, and in some instances the way and through passenger trains to be seriously interfered with; in a word, not until the riot had in the wildest manner assumed the proportions of an organized war of rebellion

against all constituted authority, did the strikers on the Pennsylvania railroad, at Pittsburgh, join in the general attempt to set law and order at defiance. Pittsburgh, being a great railroad centre, with lines extending north, south, east and west, visited daily by thousands of railway employees from other States and every section of the country, could not well avoid joining in the general turbulence existing, and sympathizing with the effort of so many of her working people to adjust grievances thought to be fatal to comfort, if not to life itself, and which appeared to yield to nothing like honest entreaty. With so many railway employees in our midst, and all feeling one common wrong, moved by one common impulse, and incited thereto by thousands of their fellows who had flocked here, it would have been almost a miracle had the railway service of Pittsburgh remained quiet, peaceful and indifferent to the actions of their friends elsewhere.

With each arriving train from other roads and localities, the crowd of turbulent "strikers" increased, until at last the threats of interference with the movement of trains at this point were given practical effect, and the roads became actually blockaded. Open defiance of all authority took form and shape thenceforward, leaving the officials of the roads powerless.

## The Civil Authority Invoked.

After enduring for several days the threats of the "strikers," and finally the open acts of violence on the part of the employees and others assembled *en masse*, the officials of the Pennsylvania railroad called upon the civil authorities for assistance, and protection for their property. The excitement had by this time become so great throughout the country—and extending to this city and neighborhood—it was found impossible, or at least impracticable, by the sheriff of the county, to assemble enough citizens as a *posse comitatus* who were willing to face the mob and attempt by force to maintain the peace. He succeeded, however, in calling together a force of about forty, confronted the mob, and ordered them to disperse, but soon found his presence treated with contempt, and his effort at restoring order wholly ineffectual. The mob by this

time numbered many thousands, and threatened the sheriff with violence, defied his authority, and sneered at his forces. Further effort in that direction looked hopeless, unless with a *posse* numbering thousands, and fully armed for fighting. Every one at such a time is found willing, perhaps, that his neighbor should risk his life and limb for the public good; but the number of non-combatants is always found, in time of sudden and actual danger, to be unusually large and respectable, if not influential.

## The People of Pittsburgh Opposed and Condemned the Mob.

From this fact, perhaps, grew, in a measure, the story that *the people of Pittsburgh were in sympathy with the mob;* a statement which is as manifestly *untrue* as it is absurd and malicious. This is not the place to discuss that point fully, but it ought to be understood that, whilst the citizens of Pittsburgh at large, rich and poor alike, may have, in the first instance, sympathized with the railway employees in their peaceful and lawful attempts to obtain an increase of their wages for labor; and whilst many of them, doubtless, thought the railway management had pushed the matter of reduction of pay *too far*, or *too fast*, or perhaps both; and further, whilst it may be and perhaps is true to some extent, that a feeling more or less of bitterness had grown between many of our people and the Pennsylvania Rail Road Company, on account of past and present differences, yet, the truth is, a gross libel was published, and a false, mendacious and contemptible statement was made, when Pittsburgh—her people, who worked like heroes to stay the hand of violence, of arson, and of murder—was charged with "sympathy with the mob" of wild, drunken and wicked men, who robbed and burned the railroad and other property, and enacted scenes of outlawry and devilishness with hardly a parallel in the history of this country, if indeed, anywhere in the civilized world. No, Pittsburgh, her good citizens, her manufacturers, merchants, mechanics, laborers, all of them, without exception, whether rich or poor, high or low, deplored the riot, consider

it an ineffaceable disgrace, and denounce it as wholly uncalled for, thoughtless and foolish, though just such work as a drunken, howling mob of ignorant, debased humanity, gathered from every part of the country, might inflict on any people in defiance of law any time and any where, and whilst good citizens might deplore and condemn, yet they could not prevent. Pittsburgh denies the vile slander that she " was in sympathy with the mob."

## The Military.

We are not dealing now with opinions, but with facts, and therefore make no expression as to the wisdom or error of bringing into our city, whilst the most intense excitement prevailed, a military organization from a distant part of the State. The troops were brought here by the authority of the State, and were accompanied officially by the Adjutant General, the Secretary of State and the Attorney General. The Governor being absent from the State, was not with the troops at this time. They were marched, on the 21st of July, up the railway tracks toward the scenes of disorder, near Twenty-eighth street, in Pittsburgh, and confronted the mob, which up to that time had held possession of the ground, and prevented the moving of trains. The troops were wholly under the direction of their proper military officers, having, by authority of the State officials, assumed control of affairs, thus relieving the civil authorities of the city and county from all direction and control.

## Assaults, but no Bloodshed.

Until the arrival of the various divisions of the State militia, with the exception of one or more assaults upon officials of the Pennsylvania Railway Company, trifling in their nature and extent, no blood had been drawn, and no open attack had been made by the strikers or any one assembled in sympathy with them. Engineers and firemen, and possibly others who had attempted to discharge their duty in moving the trains, had been menaced, and in some instances, an effort had been made to push or pull them

from the engines and cars, but no further violence had occurred up to that time. On the arrival of the First Division of the National Guard, the mob was addressed by the commanding officer of this (the Sixth) Division, Major General A. L. Pearson, who told them that the troops had been assembled to preserve the peace, restore order, and see that the railroad authorities were not interfered with in the further management of their roads. Among other things, he told them that the State military, backed by the entire strength of the Commonwealth, had assumed control of affairs, warning them to disperse and make no infractions of the peace, or attempts to delay the trains; that the troops would see that the trains were started in accordance with the orders of the proper officers of the roads.

## The Attack.

The General had hardly concluded his remarks, and retired to the telegraph office, leaving the First Division drawn up at the base of the hill, upon which the mob had principally collected, when some stones were thrown at the Philadelphia troops, some pistols were fired into their ranks, and much commotion and turbulence was visible, whilst the air was filled with epithets and curses hurled by the mob at the militiamen. At this critical juncture, a rush was made by some of the men on the hillside toward the troops, and some of the latter were rudely jostled and pushed out of their proper positions, when they raised their guns and fired into the crowd occupying the front of the steep hill, composed of men, women and children, but principally the former.

## Allegheny County Troops Fired Upon.

Mixed in among the crowd on the hillside were two or three companies of the regiment of Allegheny county troops commanded by Col. Joseph H. Gray, and possibly others, among whom the bullets of the Philadelphia troops rattled, causing but little more than a stampede, as the firing was unexpected, and badly directed for them.

## The Slaughter.

The dead and wounded fell in all directions, the hillside being literally covered with persons standing. The firing took fatal effect, men, women, and even infants suffering.

## Revenge.

The bloody work lasted only a few minutes, but its effect upon the exasperated crowd of lookers-on, attracted there in many cases by the military display, was instantaneous and terrible. At once a scene of diabolism and revengeful terrorism began; amidst which the Philadelphia troops, with some from this county, were ordered to take shelter within the round house, whilst others were sent to the transfer depot and other distant points, *leaving the battle ground, the scene of the recent carnage, in the hands of the mob,* AND THE PROPERTY OF THE RAILROAD WHOLLY AT THEIR MERCY. Later in the day the Allegheny county troops, by order of their superior officers, *were disbanded and sent to their homes.* GENERAL PEARSON COULD NOT BE FOUND, and all military authority appeared to have suddenly come to an end. With the exception of the troops beleaguered in the round house, and the Eighteenth regiment, of Allegheny county, which had been stationed at the East Liberty stock yards, and was not present at the firing, *not a soldier could be found on duty near the scenes of disorder on the evening of July 21st.* The force in the round house, together with the property of the railroad, had been foolishly, if not cowardly, abandoned to their fate, and the citizens and their property left without protection, at the mercy of a wild and avenging mob of excited men. After this time, all authority was wholly powerless to stay the hand of violence, and the mob took possession of the city.

## The First Incendiarism.

The effort of the rioters to draw the troops from the round-house failed. One of the guns from Breck's battery was stolen from the armory, and pointed at the building, being loaded with

pieces of iron and other missiles; but the gunners were, one after another, in quick succession, fired on by the beleaguered militiamen, and either killed or wounded. These movements, of course, had a direct tendency to inflame the already agitated crowd outside, who were determined in some way to reach the troops and wreak terrible vengeance upon them for the shooting down of their comrades and friends. All other attempts failing, they set fire to cars and pushed them, burning, down the tracks upon the round-house, hoping thereby to "smoke or roast out" the occupants. Such scenes as these occupied the entire night of July 21st and far into the morning. Early in the forenoon of July 22d the beleaguered militiamen were forced to vacate the round-house, it being then on fire, and by a roundabout way took up their line of march away from the scenes of disorder to a point outside of the city, followed by a number of armed men, who continually fired into their rear ranks with some effect. This division of troops within a few days from that time secured transportation to Blairsville Intersection, and there remained until recalled by the Governor.

## The Fire Spreading.

The attempt to "roast them out" however, had proven the origin of the scenes of arson and lawlessness which followed. The burning cars left standing on the tracks, surrounding the round-house, soon communicated with others, and in a short time the whole territory of the railroads, covered with the tracks, repair shops, round-houses, transfer depots and other valuable buildings, together with hundreds of loaded freight cars, the grain elevator and freight depots, including, perhaps, a hundred acres or more, was left to the mercy of the thousands of thieves, and finally to the swift following flames.

## The Citizens of Pittsburgh and Allegheny meet.

Finding themselves left wholly unprotected—the military powerless—and the civil authorities superseded, the citizens were hastily called together in public assembly, and deliberated on the best

course to pursue. Every possible attempt was made to arrest the course of the rioters, but all efforts on the part of the people, accompanied by bishops and other ministers of the gospel, were in vain to quell the evil passions aroused, and impromptu companies of citizens were disarmed and broken up by the fierceness of the onslaughts of the mob.

## The Firemen and Citizens Working to Save Property.

The efforts of the firemen and citizens to prevent the spreading of the fire to private property, were not interfered with by the mob, and by such earnest labors, millions of dollars worth, square after square, extending for a mile and a half along Liberty street, were saved. But all attempts to rescue the property of the railroad, situated on the south side of the street, were met with violence and threats of death from the rioters. The citizens and firemen worked unceasingly to prevent the spread of the flames, and the plundering of the threatened property.

Further details might be given on these and other points; but we deem it unnecessary in this paper, as we are informed that the "Committee of Public Safety" are preparing a statement of details concerning the labors of that organization and of the citizens.

## The Loss.

It is estimated that the desperate work of those two days, ending with Sunday, July 22d, will reach the enormous sum of THREE MILLION DOLLARS or thereabouts; and the next question is—who is to pay? Were it a slight loss, occasioned by a local outbreak, arising from some contest which had its inciting cause within one municipality, there might be no grounds for disputing as to the proper responsibility; but in this case, as it will be obvious from what precedes, the circumstances warrant a searching scrutiny in order to fix the loss in the proper place.

We think the facts above recited authorize the following

premises, which being admitted, will suggest the proper course to be pursued:

*First.* With the exception of the personal encounters mentioned above, and the dragging of engineers and firemen from their trains, there were no assaults made, no bloodshed, nor plundering, nor incendiarism, nor destruction of property, until after the State troops appeared on the ground and assumed control.

*Second.* On the arrival of the troops, the civil authority was superseded, and the responsibility for the peace and order of the county devolved upon the military power of the State.

*Third.* The firing of the troops on the assembled thousands of citizens, no matter whether justified, authorized, or provoked, or not, was the excuse given, if not the inciting cause for the subsequent acts of arson and pillage.

*Fourth.* After firing upon the crowd, had the State troops held the hill or remained upon the ground where the rioters were assembled, and not hidden out of sight and abandoned the property of the railway, there is no doubt that they could have easily maintained their position, without loss to themselves, or to the owners of the property they were sent here to protect.

*Fifth.* After firing, had the troops remained firm and not been disbanded, there would, in all probability, have been no further disturbance, no incendiarism, no pillage and no considerable loss.

*Sixth.* The fatal mistake of ordering the Eastern troops into the round-house, completely shut up, and surrounded with inflammable material, gave rise, in the effort to "roast them out," to the thought of incendiarism which followed so disastrously.

*Seventh.* The authorities of the State having assumed control of affairs, and the militia of the State having superseded the officers

of the law, the State is therefore bound, in equity, to pay the losses which resulted after it assumed control.

*Eighth.* The civil authorities of Allegheny County, having had their power taken from them, and having been relieved by the military forces, cannot be justly held responsible for what occurred during the time they were shorn of authority by the military.

*Ninth.* This was not merely a riot, such as was contemplated by the Act of 1849, but an INSURRECTION among the railway employees of the entire country, which began in an adjoining State, extended throughout many States, and had its agents and abettors scattered throughout the United States. No single county ought, in justice, to be held liable for damages under such circumstances, when the full power and authority of the Commonwealth proved unable and inefficient to restore and preserve order.

*Tenth.* Whilst compelled by the truth of history to acknowledge the errors of judgment on the part of the military, their officers, and *citizens*, as well, yet we wholly disclaim any intention of casting personal reflections, or indulging in unfavorable criticism, remembering the trying, paralyzing and bewildering excitement that prevailed at the time officers and people were called upon to act.

## IMPORTANT FACTS.

Before concluding this paper, we desire to particularly call attention to two important facts.

*First.* The unthoughtful might be led to prejudge the case, and decide that Allegheny County should pay the loss of the July troubles, because an existing statute, in terms, places the liability for mobs within her border upon her. It should not be forgotten, nor overlooked, that, at the time that statute was enacted, NOT A SINGLE LINE OF STEAM RAILWAY HAD BEEN LAID IN ALLE-

GHENY COUNTY, nor for years after that time did the locomotive make its appearance here. The law was enacted just subsequent to the strike among the cotton spinners in Pittsburgh, and the riots between the Protestant and Roman Catholic adherents in Philadelphia, AND WAS EVIDENTLY INTENDED TO COVER SUCH LOCAL CASES. It never was intended by its framers to apply to such a gigantic uprising as that which occurred all over the country last July, and held temporary control of the railway transportation of the United States.

*Second.* Some are inclined to say, had there been no military brought here there would have been no riot. That is looking too far into the future, and is but guess-work at best. A better position is, *had there been no riot, or interference with rights established by law, or attempt to overthrow authority, there would have been no need of the troops.* The riots were in full progress; law and order had been defied; the rights of the railroads had been seriously interfered with, and a fatal conflict was impending, before the troops were brought on the ground; and surely none will deny that the chartered rights granted the railroads by the State WERE ENTITLED TO THE PROTECTION OF THE STATE. The civil authorities were unable to preserve the peace and restore order; the State, then, was bound to interfere; the troops were brought and fired upon the rioters; and it is idle to say, now, that had no troops been brought here the rioters would have peaceably given up the contest and returned to their homes. If such were the intention, why did it not take place before the troops came? Was it the case elsewhere? THE UNITED STATES FORCES were required to quell the disturbance in Maryland and Virginia, and were afterwards brought here for the same purpose. In the absence of our State militia, the National troops would have interfered to restore order here, and the defiant attitude of the strikers would have been their justification. How absurd, then, to say, "had there been no troops brought here there would have been no riot." THE RIOT EXISTED, AND THE STATE, BY THE ACT OF 1864, WAS BOUND TO TAKE COGNIZANCE OF IT, AND PROTECT THE PROPERTY OF

HER CORPORATE BODIES, AS WELL AS OF THE CITIZEN. Its failure to do so gives us an equitable claim for the damages sustained.

## In Conclusion,

We feel that we are justified in asking the Legislature to appoint a commission to investigate the entire affair, to the end that truth may be vindicated, our citizeus placed right before the world, and the responsibility for the insurrection and subsequent loss be placed where it rightly belongs.

To the Honorable Senate and House of Representatives of Pennsylvania:

The undersigned have been appointed to present to you the cause of the county of Alleghany, in relation to the riots in the city of Pittsburg, in July, 1877. They do so, not as advocates arguing before a legal tribunal, but as citizens desiring to partake of the character and dignity of the honorable bodies they address.

You represent a great people, uneducated in the arts of litigation, and influenced only by a sense of right and of those high interests which every just government, as a *parens patriæ*, feels to be the true end of its administration. You represent the *State*, and therefore will view great questions coming before you, as statesmen, in the light of reason and conscience, and not as narrow legalists, deciding a controversy of *meum et tuum* between common litigants. Let us hope, as we certainly desire, to share this elevated temper, and to present the cause committed to us in the same spirit of frank, conscientious, and statesmanlike duty.

Without entering into all the details necessary to approach a judicial tribunal, many of which you already know, we may state the leading features of the subject, so as to submit proper views clearly, freely, and fully.

On the twenty-first and twenty-second days of July, 1877, the city of Pittsburg was visited by an extraordinary "strike" of railroad employés, extending over a vast area, and through many States. Among the cities disturbed by its ebullitions were Chicago, St. Louis, Indianapolis, Newark, Martinsburg, Denniston, Reading, Harrisburg, Baltimore, Cumberland, Scranton, Syracuse, and Buffalo. Whether the grievances complained of were just or unjust it is not our province, or perhaps

yours, to determine. It is sufficient to know that their wages were reduced when times were hard, and the country depressed; and they thought they had cause to take the remedy into their own hands. Rightfully or wrongfully, they did so. As a mere "strike," the public had no immediate connection or privity with it. Refraining from labor was the right of each individual, and when criminal by combination, it was but a mere conspiracy, punishable at law.

But the misfortune of all such great and combined movements is their growth into a tumultuous and public character, caused by the very multitude and heterogeneous mass of materials. That which at first was but a mere cessation from labor, became an insurrection or uprising over the country, by men banded together by a common interest, for a common purpose. Such uprisings must have a place of beginning or first outbreak. This happened in the city of Pittsburg, where it rose suddenly, like a water-spout or a cyclone—small in its first whirlings, but increasing as the forces of the pent up spirit of insurrection found themselves loosed from the bonds of order and social duty. A mixed and motley multitude gathered, the natural concomitant of the disorder. Wisely, or unwisely, we do not say, a military force appeared upon the scene. Intentionally, or unintentionally, by command or without, it is now immaterial which, the work of death began. It is not for us, probably not *now* for you, to determine whose the fault. We neither of us possess the attributes of punitory justice, and can not try the offense. We now consider the terrible consequences only which have fallen upon a portion of the citizenship of the State. Lives were lost of the innocent and the guilty, millions of property were destroyed. Owners, distant and near, were involved in a common violence and a common ruin. Delicate questions of relationship and liability have arisen, confined to

no narrow limits, but co-extensive with the residence of distant owners, having redress in other courts than our own, and embracing the origin, progress, and culmination of the insurrection, the relationship of some of the parties as common carriers, and as bodies enjoying privileges, and owing duties to the State.

But our question does not concern these. The law and the courts may deal with the immediate parties, whether as employers and employed, insurrectionists, owners, carriers, officers, soldiers, or rioters. Our questions concern an innocent people, living outside of the two great cities of Pittsburg and Alleghany,—a rural population of a populous county, whose relations are only as citizens and taxpayers. The city of Alleghany, it is said, preserved the peace, though unable to control the "strikers" who retained and held possession of the railroad property and freights. But her concentrated population and force only illustrate more forcibly the utter impotence and want of organized power of a rural population, scattered over numberless farms, small towns, and a wide territory. The city of Pittsburg, it is said, did not its duty in its *organized* capacity, though its best and most leading citizens, roused by the fearful danger, met in an unorganized form, created committees of safety, raised $51,000 in money, and arms for the defense of property and restoration of the peace. Yet even this devoted city, whose officials may not have performed their whole duty, can not give law to the innocent people of Alleghany county and Alleghany city, or deprive them of that just protection which the justice, conscience, and welfare of this great State owe to them as a part of its common citizenship. And while some of this ill-fated city may have omitted their duty to the public, it will not be forgotten by you, as statesmen and the representatives of a just and parental government, how many of this vast population are innocent men,

women, and children, entitled to your care, and how few may be said to have deserved punishment. The justice of the State will not be less conspicuous for this multitude of the innocent than that of the great God, who for a few righteous would have spared the wicked cities of the ancient plain.

For long years a law evoked by the local riots of a distant city in the east, and transmitted, by legislative fiat, to a single county in the west, had lain dormant and undiscovered. Suddenly, illumined by the flames of those two eventful days, the people of that county saw in lines of lurid light the condemnation it passed upon them. Like the peaceful dreamer, roused by nocturnal fire, they found themselves instantly involved in ruin by no act or negligence of their own, but by the *imputed* omissions of others.

What duty do the great people, of whom they are a part, owe to them? What relief can you, the chosen representatives of that people, afford? This is the momentous question we propose to discuss in that spirit of broad statesmanship which we believe will actuate you, —in a temper of even-handed justice and conscientious duty, and stripped of technicality and trivial fault-finding.

This spirit begets our first inquiry. Is it right, is it just, is it compatible with a broad philanthropy and a just conception of the mutual relations of all our citizens, that this portion of themselves should bear so great a loss so suddenly, so wrongfully, cast upon them by an overwhelming catastrophe and by wrong-headed men? We believe not, and would urge this conclusion upon many strong grounds.

First, as to the character and applicability of the law—the act of May 31st, 1841, as extended to Alleghany county by the act of March 20th, 1849. It was the offspring of local and limited circumstances, and applied to populous municipalities having extraordinary powers of

prevention. The riots out of which it sprang were special in character and limited in sphere, and in many instances the outgrowth of religious intolerance. Born of bigotry and spurred on by a belief of serving God, such a spirit transcends human motives, and roots its purposes in religion and duty. Such were the feelings which often fired buildings and involved innocent owners in serious losses; and hence the law. The chief municipalities affected—the city and incorporated districts of Philadelphia—were full and strongly organized governments. Represented by a mayor or chief officer, alderman, a police and constabulary force, acting within narrow and populous limits, their efficiency was plenary, first to know of and then to suppress the riot. Amid the din of the mob the voice of power could instantly be heard and its arms be felt. But how is an ordinary county organized, and what are its opportunities and powers to meet the emergency? It is represented by three commissioners for business ends, and without the powers of peace officers. It is not a unit, possessing concentrated force, but an assemblage of independent townships and boroughs, with a separate and limited constabulary and without a common head or source of action. It has courts adequate to trial and punishment of past offenses, but with no adequate means to suppress a sudden *emeute* or an extensive uprising. Even the high sheriff, its chief officer, while competent to arrest a few offenders with the aid of bystanders called into service, is powerless in so great an uprising. In theory, the *posse comitatus*, or power of the county, may be said to be adequate, and practically is so under ordinary circumstances. Yet in the face of such an uprising and of such numbers of maddened men as the events of May, 1877, witnessed it is utterly insufficient. We speak of the *posse*, the power of the county, but what and where is it when sudden danger and a numberless and angry host

confronts the officer? How far can his voice reach? How many can he press into service? Who will arm at his call? And if they will not, what instant remedy has he? He may indict, but this comes too late. If the rioters have arms, where are his opposing arms; where the drilled force to use them, and what the courage of a mixed and shrinking company of inexperienced citizens of all ages and conditions to face the danger? Practically, in such a case, the *posse comitatus*, or power of the county, in the hands of the sheriff is a nominal thing, without force or efficiency. An armed and drilled military only can meet the emergency.

What, then, is the case to be dealt with? An insurrection of employés over a wide extent of country, banded and leagued together in such numbers as to control and use the railroads over this vast territory—a concentration of a great number of them in Alleghany City and at the Union depot in the city of Pittsburg; a dispossession of the railroad companies of their property and freights, and added to these a tumultuous influx of men of the worst classes, swelling their number, and yet without their purpose to guide and restrain them. There surges this mingled, inflammable mass, needing but a spark to kindle it into flame. Where is the *posse comitatus*, and when and how shall it act? In all good sense and reason, is this the adequate means of the most feeble and disconnected organization of all the municipal divisions of the States, a mere county, that its omission to suppress such a powerful uprising shall be the ground of liability of innocent citizens of every sex, age, and condition? Is it just? Is it right? To the people of the State the answer must be, they are your fellow-citizens, but a part of the great body politic called the State, and as such there is no reason they should suffer more than others. The loss is common to all, peculiar to none, except that city alone in which the loss took

place. There the loss, perhaps, might better fall, for there alone was the organized power which possibly might have prevented it. But the people of the county ought not to suffer for their supineness, if such existed, nor should the innocent portion of the city, and how can you separate the remiss from the innocent? This law singles not the city of Pittsburg or the city of Alleghany, but casts its baleful shade over the farms and small towns of a whole county as well as over the two cities. Mark another feature of this special local legislation. Suppose it extended to every county in the State. Counties without cities would stand in the same relation as the rural portions of Alleghany county. In them there could be no such uprising, and therefore no probability of loss. As to them the law would be a silent letter. But on what superior ground would all such counties stand than the rural parts of Alleghany, where the probability of such uprisings is no greater? Mobs of this kind do not infest the country districts. Why, then, should either bear the sins of a populous city, having an organization, with the power, yet omitting the duty, of protection? Will proximity of territory be urged? Why shall farms in the skirts of Alleghany county suffer, when adjoining farms go free, in Westmoreland, Armstrong, Butler, Beaver, Washington, and Fayette? Proximity to the loss is no fair argument.

Such being the origin and purpose of the law and the means of executing it by a mere county organization, what were the nature and character of the acts which are supposed to invoke its application to Alleghany county? These have been stated, and we refer to them now, only to exhibit the entire want of applicability of the law to the facts of the case. It was no local riot or hasty mob, suddenly collected and set in motion by limited causes, and liable to be taken in hand by a competent force. The employés of railroad companies in

many States, by organization and a common purpose, undertook to remedy what they considered a great grievance by a general "strike," or cessation from labor, and by retaining possession of the property of their employers in their own hands, and so to stop and preclude operations as to force the companies into concessions favorable to their views. Plainly, this purpose, combination, and means of execution were not within any single county power, or any known means of prevention possessed by it, much of them, indeed, being extraterritorial. Until an outbreak took place, the acts of the employés were private and concerned their employers alone, whose remedies were civil. When the outburst came it was quick and sharp, and became influenced by the accretions of numbers from other ranks, and also by military intervention. It had suddenly transcended county power so far that the aid of the chief executive of the State was invoked, whose command, actual or presumed, brought into requisition military forces near and remote. Clearly, this was no ordinary mob, to be quelled by maces and arrests. On the contrary, it was an outbreak at the Union depot, it is true, but of a combination on so grand a scale only State or Federal power was commensurate to its suppression. Instead of an ordinary riot, it was an insurrection before which even the military quailed, took refuge in the fortress of a round-house, from which they were expelled by fire, and finally retired, pursued by the insurrectionary force, whose following and firing carried them beyond the river and homeward. Clearly, this was no mob or riot to be met and resisted by county power or county means. It was not within the spirit and purpose of the act of 1841.

Now, what is the ground of liability of the citizenship of a municipality for the unlawful trespasses of a mob? Certainly, it is the possession of adequate municipal

power to prevent the loss. The people of a State are one, and those of any county bear the same relation to the whole borne by all the others. County lines create no differences in the eyes of justice or of governmental protection. These lines are but for the convenient local administration of the laws of the State for the good of all. There is no more reason that the property of a resident of one county should be taken to pay for a trespass than that of the resident of any other. The trespass is the wrong of another for whose acts he is not responsible. The liability for such a wrong being nothing original or peculiar to one innocent citizen more than to another, both being guiltless, it is manifest the liability of the people of any one county is only *imputed*, and not inherent. It rests alone on some reasonable foundation assumed by the law for a righteous and just cause. This cause can be no other than the possession of the authority and the means of preventing the trespass or wrong.

If I see my brother man engulfed and drowning, and have a rope or plank to save him, and do it not, a righteous God will hold me answerable for his death. But if distant, and I see him not struggling in the wave, or if seeing, I have no power or means to save, I will be held guiltless of his blood. Such, and such only, is the nature of the liability of the people of a county for a loss in which they bear no active part. If distant from the scene, or if without a sufficient power and means to prevent, a loss is suffered by a mob, no law, human or divine, will hold them liable. There can be no *imputed* guilt where no privity exists.

What, then, should be the relief afforded to this suffering people, liable to innumerable suits and to perennial litigation. A sense of justice, a feeling of common weal, a sympathy for innocent suffering, and patriotic impulses, will influence a magnanimous people, related to each other by a common bond of citizenship, to lift off

the burden and restore them to equality with others. They can not see a portion of themselves weighed down by a load so heavy, in addition to those weights which had before crushed them under misfortunes and the follies of servants whose unwise management had cast them down. No justice can reach the true offenders who have caused this great loss. It must be borne by some one. Will it be the innocent owners of property carried through the State? Will it be the carriers? Will it be the rural and guiltless parts of Alleghany county? Owners risked their property to the accidents of travel—carriers were in some measure involved in the procuring causes. But what part did these innocent citizens of Alleghany play in this drama of destruction? Why, then, shall not the State bear the loss, whose chief magistrate undertook the suppression of this great uprising, and failed until after the destruction. Having assumed State importance, why shall not the State repair the loss?

Will it be said this is contrary to the ninth section of the ninth article of the new constitution, which declares that "the Commonwealth shall not assume the debt, or any part thereof, of any city, county, borough, or township unless such debt shall have been contracted to enable the State to repel invasion, suppress domestic insurrection, defend itself in time of war, or to assist the State in the discharge of any portion of its present indebtedness?" No constitutional lawyer, no sound jurist, can defend the assertion.

This is no *debt* which the State is asked to *assume* for *another.* It is a *damage*—a loss sustained by *owners* of property through the *trespass* and violence of lawless men. Throughout the act of 1841 all the terms express this. Its words are "property destroyed," "attacked or threatened to be attacked," "destruction," "injury," "loss," "damages," "party injured." The tenth section

calls it a trespass; "the same shall to all intents and purposes be treated as actions of trespass brought by owners of such property;" again, "damages finally fixed and ascertained."

The county of Alleghany has committed no injury; it has incurred or contracted no debt. It has not been convicted of the trespass and the damages fixed and ascertained. Until trial, verdict, and judgment against the county the owners have but a *claim*, not a debt. The only suits brought against the county are yet pending on writ of error, and the verdicts amount in all to less than $7000. In no sense does the county owe a debt which the State is asked to assume. She is asked to save litigation, prevent injury to innocent taxpayers, and promote the best interests of the State by *primarily* and *of her own accord* compensating the *owners* of the destroyed property. It will thus be her own voluntary contribution to the public good, and protect the innocent from harm.

Your honorable bodies will have noticed that we have refrained from discussing merely legal questions. Yet that it may not be supposed these are wanting, we may say, that the county liability is by no means admitted, but is stoutly denied; and the questions will be found to be full of difficulty, as to the constitutionality of the law under the new constitution, its applicability to the losses sustained, the exemption of the county, by reason of the alleged improper conduct of others, the exonerating effect of the military intervention, the action of the State through her chief executive officers, the character, ownership, and absence of *situs* of the property destroyed, the time when the "strike" ended as a private affair, and the strikers became a mob and rioters, and the want of legal as well as adequate power in the county to suppress the mob and prevent destruction. These are all for the

tribunals of justice, and are yet to be tested; but they illustrate the reasoning that the State is not asked to assume a county debt, but of her own motion to compensate, by original action, the losses of the owners.

But our case, rising above a verbal or critical interpretation of the Constitution, stands upon a high and more statesmanlike ground. The State owes a duty to all her citizens to promote the general welfare and to do that which tends to advance the interest of all. What higher interest can we specify than the protection of the property of distant owners passing into or through our State to our chief city or to maritime ports, and all contributing to the wealth and comfort of her citizens in a greater or less degree. If we protect not these great interests of commerce, we at once strike a fatal blow at trade and transportation, and furnish rival interests in other States with a pretext to aid in our depression. What more suicidal than such a policy, which diminishes home interests and increases those outside? It has not the plea even of selfishness for its defense, for true self-interest requires the encouragement of our trade and transportation by a high-minded and liberal course to others. Look at the vast trade that the West pours into the lap of our own commerce, and what it leaves behind in wages, freights, and other profits to our people, even when the transit carries it beyond our boundaries to the sea-coast. These interests, apart from local liability and local wrongs, demand a generous policy, not a nice and technical view of the fundamental law. She should, therefore, pay these losses as a necessary duty to herself.

But there is a constitutional repugnancy, which the statesman of broad and comprehensive views may well perceive in this,—the law is special and local as well as partial and unjust in the extreme. It is wholly repugnant to the spirit of the seventh section of the third article, which forbids special and local legislation. Being

passed before the adoption of the Constitution, it may stand until it is repealed; but by that section the right of repeal is reserved to bring the locality into harmony with all other parts of the State. This was the intent of the framers, so that eventual harmony shall prevail throughout the whole. In our judgment, not only should the State relieve the county of its present burden, but should, by repeal, bring it into harmony with the other counties. If necessary, a law applicable to all cities having a competent organization to prevent mobs may be adopted, but this should not be a condition to unconditional repeal of this local and inharmonious law.

It will be seen from this presentation of the subject of proposed legislation, that it is not placed upon the footing of the assumption of the debts or obligations of any portions of the Commonwealth, or of any bodies or individuals within it, nor is it of the nature of an appropriation to any charitable or benevolent purpose within the eighteenth section of the third article of the Constitution. It is the assumption by the soveregn of an extraordinary and overwhelming crisis, which its ordinary and regular agencies were insufficient and unable to deal with. It is asked to be applied, not upon the principle of the assumption by the stronger of the debt of the weaker party—not upon the theory of the discharge of a supposed obligation of charity or kindness, but based upon that broad political view, that those who have property within the borders of a great Commonwealth may hold it in the full security that such property will be protected from ordinary losses by the ordinary agencies which an intelligent people shall have established to meet the limited exigencies of usual and commonly recurring causes; and by the State, when the ruin is brought about by causes which could not have been foreseen, and therefore could not have been provided for.

There is, it is true, a moral principle lying at the root of such legislation, but it is a principle which must exist in some sense, as the basis of all enlightened and comprehensive jurisprudence. It is a part, and probably the vital principle of all that code which binds into one great family all the nations of the earth; which mitigates the horrors of necessary warfare, and renders intercourse between the most distant regions of the globe practicable and desirable. In a word, it is nothing more than the application to affairs of government and state of that maxim of divine authority which enjoins us, upon all occasions, to do unto others as we would that they should do unto us. Being, therefore, firmly planted upon foundations of moral right, and of comprehensive but perfectly intelligible equity, it partakes in no wise of the nature of charity, benevolence, or improper assumption of the liabilities of others, but is stamped with the essential attributes of political justice.

In conclusion, we submit that sound policy, righteousness, and the general welfare of the State, require payment of these losses out of the common treasury of the people.

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